IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

WP(C).No. 35904 of 2007(Y)

AGAINST THE ORDER IN IA.NO.2477/2000 IN OS.257/1983 of MUNSIFF COURT, PERUMBAVOOR

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PETITIONER:

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1. K.V.THANKAPPAN NAIR, AGED 65,
NEPHEW OF NEELAKANDAN PILLAI, KALLELI HOUSE,
VENGOOR VILLAGE, KUNNATHUNADU TALUK,
PIN-683 546.

2. K.V.RAVEENDRAN NAIR, AGED 54,
NEPHEW OF NEELAKANDAN PILLAI, KALLELI HOUSE,
VENGOOR VILLAGE, KUNNATHUNADU TALUK,
PIN-683 546.

BY ADV. SRI.V.SANKARA RAJA
SRI.M.A.SUNILKUMAR

RESPONDENTS:

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1. RETHI, AGED ABOUT 44, W/O.RAMANATHAN
OF KALLELI HOUSE, THURUTHY KARA,
VENGOOR WEST VILLAGE, PIN-683 545.

2. RANJITHA.R.NATH, AGED ABOUT 22,
D/O.LATE RAMANATHAN, KALLELI HOUSE, THURUTHY KARA,
VENGOOR WEST VILLAGE, THURUTHY P.O.,
(VIA) KURUPPAMPADY, PIN-683 545.

3. RAKHY.R.NATH, AGED ABOUT 20,
D/O.LATE RAMANATHAN, KALLELI HOUSE, THURUTHY KARA,
VENGOOR WEST VILLAGE, THURUTHY P.O.,
(VIA) KURUPPAMPADY, PIN-683 545.

4. RAJESWARI AMMA, W/O.LATE PRABHAKARAN NAIR, KALLELI HOUSE, THURUTHY KARA, VENGOOR WEST VILLAGE, THURUTHY P.O., (VIA) KURUPPAMPADY, PIN-683 545.(K.N.PRABHAKARAN NAIR & RAMANATHAN MENTIONED AS RESPONDENTS IN THE ORDER OF LOWER COURT ARE NO MORE.THEIR ONLY LEGAL REPRESENTATIVES REPTS 1TO

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 35904 OF 2007

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Dated this the 14th day of December, 2007.

J U D G M E N T

This writ petition is preferred against the order of the Munsiff, Perumbavoor in I.A.2477/00 in O.S.257/83. The original suit is pending in the trial court for the last 24 years and even now the parties are fighting on the Commissioner's report, its identity etc. The crux of the matter is regarding the entitlement of the plaintiff. The case of the plaintiff is that one acre and 66 cents of land had been set apart as per D schedule to the partition deed No. 1527/1102 M.E. It is further submitted that there was a mistake and it has been rectified by document No.134/1950. Defendants would contend that the plaintiffs are only entitled to 83 cents of property and the claim for one acre 66 cents is without any basis. So the whole question depends upon the extent which the plaintiffs are entitled to. It is a matter that has to be proved by documentary evidence. If the defendants are able

to establish that the document relied upon by the plaintiffs is incorrect, then certainly plaintiffs will not be entitled to any relief. It is true that the Court has refused to set aside the Commissioner's plan and report. I make it clear that it will not stand in the way by the defendants adducing evidence against the Commissioner's plan and report and if they are able to establish the same by cogent evidence then certainly the Court has to consider it and proceed accordingly. At that stage if the Court feels that the matter requires further investigation by the Commissioner it is for that Court to decide. With these observations, this writ petition is disposed of.

M.N. KRISHNAN, JUDGE.

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